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## SENATE BILL No. 313

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-9; IC 3-14-1-16.

**Synopsis:** Surplus funds held by candidate's committee. Allows a retiring state, legislative, local, or school board officeholder to use surplus contributions received by the officeholder's candidate's committee for personal purposes if the officeholder pays the applicable taxes on the amounts used.

**Effective:** July 1, 2005.

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### Antich-Carr

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January 6, 2005, read first time and referred to Committee on Elections and Civic Affairs.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 313

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 3-9-3-4 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Money received by a  
3 candidate or committee as a contribution may be used only:

4 (1) to defray any expense reasonably related to the person's or  
5 committee's:

6 (A) campaign for federal, state, legislative, or local office;

7 (B) continuing political activity; or

8 (C) activity related to service in an elected office;

9 (2) to make an expenditure to any national, state, or local  
10 committee of any political party or another candidate's committee;

11 or

12 (3) upon dissolution of a committee, in a manner permitted under  
13 IC 3-9-1-12.

14 (b) Money received by a candidate or committee as a contribution  
15 may not be used for primarily personal purposes by the candidate or by  
16 any other person except as described in subsection (a) **and section 4.5**  
17 **of this chapter.**

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(c) Money received as a contribution may be invested by a committee in an account with a financial institution, savings association, or credit union, or in any equity account. Any loss resulting from an investment under this subsection must be reported as a committee expenditure. Any gain resulting from an investment under this subsection must be reported as income.

SECTION 2. IC 3-9-3-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4.5. (a) This section applies to an individual who leaves a state, legislative, local, or school board office after June 30, 2005.**

**(b) As used in this section, "surplus" refers to the assets of a candidate's committee, including cash on hand, after the payment of expenditures described in section 4(a)(1) and 4(a)(2) of this chapter.**

**(c) An individual who leaves a state, legislative, local, or school board office may use all or part of the surplus in the individual's candidate's committee for:**

**(1) any of the purposes listed in IC 3-9-1-12; or**

**(2) the individual's personal purposes.**

**(d) If the individual elects to use all or part of the surplus in the individual's candidate's committee for the purposes described in subsection (c)(2), the individual must pay all applicable taxes on the amount before using the amount for those purposes.**

SECTION 3. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:**

**(1) Fails to file with the election division a report in the manner required under IC 3-9-5.**

**(2) Fails to file a statement of organization required under IC 3-9-1.**

**(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.**

**(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.**

**(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.**

**(6) Makes a contribution in the name of another person.**

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(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4 or **IC 3-9-3-4.5**.

(11) Violates IC 3-9-2-12.

(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5.

(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty

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of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of any contributions received.

(2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of the contributions undesignated.

(2) One thousand dollars (\$1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

(k) Proceedings of the commission under this section are subject to

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1 IC 4-21.5.

2 SECTION 4. IC 3-9-4-17 IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) In addition to any other  
4 penalty imposed, a person who does any of the following is subject to  
5 a civil penalty under this section:

6 (1) Fails to file with a county election board a report in the  
7 manner required under IC 3-9-5.

8 (2) Fails to file a statement of organization required under  
9 IC 3-9-1.

10 (3) Is a committee or a member of a committee who disburses or  
11 expends money or other property for any political purpose before  
12 the money or other property has passed through the hands of the  
13 treasurer of the committee.

14 (4) Makes a contribution other than to a committee subject to this  
15 article or to a person authorized by law or a committee to receive  
16 contributions in the committee's behalf.

17 (5) Is a corporation or labor organization that exceeds any of the  
18 limitations on contributions prescribed by IC 3-9-2-4.

19 (6) Makes a contribution in the name of another person.

20 (7) Accepts a contribution made by one (1) person in the name of  
21 another person.

22 (8) Is not the treasurer of a committee subject to this article, and  
23 pays any expenses of an election or a caucus except as authorized  
24 by this article.

25 (9) Commingles the funds of a committee with the personal funds  
26 of an officer, a member, or an associate of the committee.

27 (10) Wrongfully uses campaign contributions in violation of  
28 IC 3-9-3-4 or **IC 3-9-3-4.5**.

29 (11) Fails to designate a contribution as required by IC 3-9-2-5(c).

30 (12) Violates IC 3-9-3-5.

31 (13) Serves as a treasurer of a committee in violation of any of the  
32 following:

33 (A) IC 3-9-1-13(1).

34 (B) IC 3-9-1-13(2).

35 (C) IC 3-9-1-18.

36 (b) This subsection applies to a person who is subject to a civil  
37 penalty under subsection (a)(1) or (a)(2) for filing a defective report or  
38 statement. If the county election board determines that a person failed  
39 to file the report or a statement of organization not later than noon five  
40 (5) days after being given notice under section 14 of this chapter, the  
41 county election board may assess a civil penalty. The penalty is ten  
42 dollars (\$10) for each day the report is late after the expiration of the

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1 five (5) day period, not to exceed one hundred dollars (\$100) plus any  
 2 investigative costs incurred and documented by the board. The civil  
 3 penalty limit under this subsection applies to each report separately.

4 (c) This subsection applies to a person who is subject to a civil  
 5 penalty under subsection (a)(1) or (a)(2) for a delinquent report or  
 6 statement. If the county election board determines that a person failed  
 7 to file the report or statement of organization by the deadline prescribed  
 8 under this article, the board shall assess a civil penalty. The penalty is  
 9 fifty dollars (\$50) for each day the report is late, with the afternoon of  
 10 the final date for filing the report or statement being calculated as the  
 11 first day. The civil penalty under this subsection may not exceed one  
 12 thousand dollars (\$1,000) plus any investigative costs incurred and  
 13 documented by the board. The civil penalty limit under this subsection  
 14 applies to each report separately.

15 (d) This subsection applies to a person who is subject to a civil  
 16 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or  
 17 (a)(10). If the county election board determines that a person is subject  
 18 to a civil penalty under subsection (a), the board may assess a civil  
 19 penalty of not more than one thousand dollars (\$1,000), plus any  
 20 investigative costs incurred and documented by the board.

21 (e) This subsection applies to a person who is subject to a civil  
 22 penalty under subsection (a)(5). If the county election board determines  
 23 that a person is subject to a civil penalty under subsection (a)(5), the  
 24 board may assess a civil penalty of not more than three (3) times the  
 25 amount of the contribution in excess of the limit prescribed by  
 26 IC 3-9-2-4, plus any investigative costs incurred and documented by  
 27 the board.

28 (f) This subsection applies to a person who is subject to a civil  
 29 penalty under subsection (a)(11). If the county election board  
 30 determines that a corporation or a labor organization has failed to  
 31 designate a contribution in violation of IC 3-9-2-5(c), the board shall  
 32 assess a civil penalty equal to the greater of the following, plus any  
 33 investigative costs incurred and documented by the board:

34 (1) Two (2) times the amount of the contributions undesignated.

35 (2) One thousand dollars (\$1,000).

36 (g) This subsection applies to a person who is subject to a civil  
 37 penalty under subsection (a)(12). If the county election board  
 38 determines, by unanimous vote of the entire membership of the board,  
 39 that a person has violated IC 3-9-3-5, the board may assess a civil  
 40 penalty of not more than five hundred dollars (\$500), plus any  
 41 investigative costs incurred and documented by the board.

42 (h) This subsection applies to a person who is subject to a civil

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1 penalty under subsection (a)(13). If the county election board  
 2 determines, by unanimous vote of the entire membership of the board,  
 3 that a person has served as the treasurer of a committee in violation of  
 4 any of the statutes listed in subsection (a)(13), the board may assess a  
 5 civil penalty of not more than five hundred dollars (\$500), plus any  
 6 investigative costs incurred and documented by the board.

7 (i) All civil penalties collected under this section shall be deposited  
 8 with the county treasurer to be deposited by the county treasurer in a  
 9 separate account to be known as the campaign finance enforcement  
 10 account. The funds in the account are available, with the approval of  
 11 the county fiscal body, to augment and supplement the funds  
 12 appropriated for the administration of this article.

13 (j) Money in the campaign finance enforcement account does not  
 14 revert to the county general fund at the end of a county fiscal year.

15 (k) Proceedings of the county election board under this section are  
 16 subject to IC 4-21.5.

17 SECTION 5. IC 3-14-1-16 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A person who  
 19 knowingly or intentionally violates IC 3-9-3-4 **or IC 3-9-3-4.5** commits  
 20 a Class A infraction.

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